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Attorneys for A.F. Evans Company, Inc., Debtor

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re

A.F. EVANS COMPANY, INC.,

Debtor.

Case No. 09-41727 EDJ

Chapter 11

**AMENDMENT TO
STIPULATION REGARDING
CASH COLLATERAL
AND ADEQUATE PROTECTION**

This Amendment to Stipulation Regarding Cash Collateral and Adequate Protection (this "Amendment") is dated as of March 9, 2009, and is entered into by and between the debtor in the above-captioned Chapter 11 case, A. F. Evans Company, Inc., a California corporation (the "Debtor"), and City National Bank, a national banking association ("CNB").

RECITALS

A. The Debtor and CNB have entered into a Stipulation Regarding Cash Collateral and Adequate Protection dated as of March 6, 2009 (the "Stipulation").

B. During the process of the Debtor's making its application to the Court for authority to pay certain payroll obligations related to employees outside of its corporate office and working on site at the debtor's partnership affiliates ("Site Employees"), CNB and the Debtor became aware that the budget attached as Exhibit A to the Stipulation was incomplete, in that it did not reflect that the payment of such Site Employees is made by the Debtor, and that the funds required

1 to pay such Site Employees at the partnership level flow through the Debtor.

2 C. To address the foregoing, CNB and the Debtor desire to amend the Stipulation and
3 to revise the budget, as set forth below.

4 **WHEREFORE**, the parties hereby amend the Stipulation as follows:

5 **AGREEMENT**

6 1. **Amendment and Restatement of Budget**. The budget attached to the Stipulation is
7 hereby amended and restated by the revised budget attached hereto as Exhibit A, and all references
8 in the Stipulation to the "Budget" shall refer to the attached revised budget.

9 2. **Amendment to Section 2 (Consent to Use Cash Collateral)**. Section 2(a) of the
10 Stipulation is amended to add the following at the conclusion thereof:

11 "Notwithstanding the foregoing, amounts paid by the Debtor for any portion
12 of the "Estimated Site Related Payroll Disbursements" category reflected on
13 the Budget shall be funded solely by, and shall not at any time individually
14 or in the aggregate exceed, the Debtor's "Estimated Site Payroll Receipts"
15 held by the Debtor, as reflected by the Budget."

16 3. **Amendment to Section 7(b) (Segregation of CNB Cash Collateral)**. Section 7(b) of
17 the Stipulation is amended to add the following at the conclusion thereof:

18 "The Debtor shall segregate "Estimated Site Payroll Receipts" into a
19 separate payroll account, to be used solely for the purposes of receiving
20 "Estimated Site Payroll Receipts" and disbursing the same in payment of
21 "Estimated Site Related Payroll Disbursements" amounts as contemplated
22 in Section 2(a) above ("Site Payroll Account"). The Debtor shall take all
23 steps as may be necessary to ensure that each applicable affiliate
24 partnership: (i) remits to the Debtor the appropriate amounts for wages,
25 withholding and other payroll and wage-related expenses associated with
26 the services of each Site Employee to the extent applicable to such affiliate
27 partnership, but not for Site Employee service applicable to the Debtor or to
28 any other affiliate partnership, and (ii) remits such amounts to the Debtor in

1 a timely manner so as to permit the Debtor's timely payment of such Site
2 Related Payroll Disbursements. Subject to the requirement of Section 2
3 above that amounts paid by the Debtor for any portion of the "Estimated
4 Site Related Payroll Disbursements" category reflected on the Budget must
5 be funded solely by, and shall not exceed, the Debtor's "Estimated Site
6 Payroll Receipts" held by the Debtor, the Debtor may sweep funds from the
7 Site Payroll Account into its general payroll account for the limited purpose
8 of paying Site Related Payroll Disbursements from the general payroll
9 account, but only as and when necessary to permit timely payment of such
10 amounts from the payroll account. The Debtor shall provide to CNB, upon
11 its request from time to time, such evidence as may be appropriate to
12 demonstrate that the requirements of this Section 7(b) have been satisfied."

13 4. No Other Modifications. Except as expressly set forth in this Amendment, all
14 terms and provisions of the Stipulation remain unchanged, and the Stipulation, as amended by this
15 Amendment, is hereby confirmed and ratified.

16 5. Signatures. This Amendment may be executed in counterparts. Facsimile
17 signatures are acceptable. The attorney for any party may sign on behalf of that party. Each
18 attorney signing for its client represents it has authority to bind its client to this Stipulation and
19 each party shall be deemed to have authorized its attorney to sign on its behalf.

[signature page follows]

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2 Dated: March 9, 2009

Kornfield, Nyberg, Bendes & Kuhner, P.C.

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By:Eric A. Nyberg /s/

(Bar No. 131105)

Attorneys for Debtor

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7 Dated: March 9, 2009

Pepler Mastromonaco LLP

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By:T. Scott Bucey /s/

(Bar No. 202657)

Attorneys for City National Bank

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[signatures continue on following page]

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2 Dated: March 9, 2009

A.F. Evans Company, Inc.

3 By:

4 Name: RICHARD A. BELL
Title: EXECUTIVE VICE PRESIDENT

5
6 Dated: March 9, 2009

City National Bank

7 By:

8 Name: _____
9 Title: _____

10
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1

2 Dated: March 9, 2009

A.F. Evans Company, Inc.

3

By: _____

Name: _____

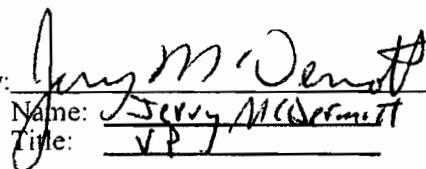
Title: _____

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6 Dated: March 9, 2009

7 City National Bank

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9 By: 

10 Name: Jerry M. Jensen

Title: VP

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